

BURGARD 789 LLC
Response to
U.S. EPA CERCLA Section 104(e)
Information Request

USEPA SF



1372181

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ATTACHMENTS

Attachment A Phase I Environmental Site Assessment

Attachment B Phase II Environmental Site Assessment

SECTION 1 - RESPONDENT INFORMATION

QUESTION 1. Provide the full legal, registered name and mailing address of Respondent.

Burgard 789 LLC
1750 NW Naito Parkway, Suite 106
Portland, OR 97209

QUESTION 2. For each person answering these questions on behalf of Respondent, provide (a) full name; (b) title; (c); business address; and (d) business telephone number, electronic mail address, and FAX machine number.

- (a) Mr. Todd Becker
- (b) Property Manager, Burgard 789 LLC
- (c) 1750 NW Naito Parkway, Suite 106
Portland, OR 97209
- (d) 503-478-6603 (business telephone); todd@AmericanIndustriesInc.com;
503-222-0070 (fax)

QUESTION 3. If Respondent wishes to designate an individual for all future correspondence concerning this Site, please indicate here by providing that individual's name, address, telephone number, fax number, and, if available, electronic mail address.

Mr. Todd Becker
Property Manager, Burgard 789 LLC
1750 NW Naito Parkway, Suite 106; Portland, OR 97209
503-478-6603 (business telephone); todd@AmericanIndustriesInc.com;
503-222-0070 (fax)

SECTION 2 - OWNER / OPERATOR INFORMATION

QUESTION 4. Identify each and every Property that Respondent currently owns, leases, operates on, or otherwise is affiliated or historically has owned, leased, operated on, or otherwise been affiliated with within the Investigation Area during the period of investigation (1937 – Present). Please note that this question includes any aquatic lands owned or leased by Respondent.

Respondent currently owns an approximately 14-acre property consisting of the following three parcels within the Investigation Area:

- i. Parcel I: Lot 7, and an undivided one fourth interest in Tract C, of the Burgard Industrial Park (tax lot 600);
- ii. Parcel II: Lot 8 of the Burgard Industrial Park (tax lot 700); and
- iii. Parcel III: Lot 9, and an undivided one fourth interest in Tract C, of the Burgard Industrial Park (tax lot 100).

Together, these parcels are the "Property."

QUESTION 5. Provide a brief summary of Respondent's relationship to each Property listed in response to Question 4 above, including the address, Multnomah County Alternative Tax lot Identification number(s), dates of acquisition, period of ownership, lease, operation, or affiliation, and a brief overview of Respondent's activities at the Properties identified.

The address for the Property is 9125 N. Time Oil Road, Portland, OR 97203.

Respondent acquired the Property from Schnitzer Investment Corp. pursuant to a Statutory Special Warranty Deed dated July 17, 2007. The Multnomah County Alternative Tax Lot Identification Number for Parcel I is R123698; Parcel II is R123699; and Parcel III is R123700. Respondent leased the Property to Boydstun Metal Works, Inc. ("Boydstun") from July 2007 until April 2009. Boydstun manufactured car haulers, and retrofit trucks to haul them. Boydstun provided its response to U.S. EPA's CERCLA Section 104(e) Information Request in June 2008 regarding the Property.

Currently, Respondent leases the Property yard to two tenants for trailer storage; the building is vacant. Respondent has never conducted any activities at the Property other than those incident to ownership.

QUESTION 6. If you are the current owner and/or current operator, did you acquire or operate the Property or any portion of the Property after the disposal or placement of hazardous substances, waste, or materials on, or at the Property? Describe all of the facts on which you base the answer to this question.

Based on Environmental Site Assessments ("ESAs") prepared on Respondent's behalf (discussed in more detail in response to Question 7, below), the Property was originally part of a large marshy area between the Willamette River and the Columbia Slough that was eventually filled. At one point, the Property housed the barracks for the Oregon Shipbuilding Corporation (from the early 1940s until approximately 1955). In 1978, the present-day building at the Property was constructed and the Property began to be used for light manufacturing, warehousing, log storage, and office uses. Consequently, historically, there may have been disposal or placement of hazardous substances, waste, or materials on or at the Property. However, based on a subsurface investigation conducted on behalf of Respondent (discussed in more detail in response to Question 7, below), there is no contamination present at the Property that warrants additional subsurface investigations.

QUESTION 7. At the time you acquired or operated the Property, did you know or have reason to know that any hazardous substance, waste, or material was disposed of on, or at the Property? Describe all investigations of the Property you undertook prior to acquiring the Property and all of the facts on which you base the answer to this question.

In connection with its acquisition of the Property in July 2007, Respondent contracted with PBS Engineering and Environmental ("PBS") to conduct a Phase I ESA to determine whether contamination from hazardous substances or petroleum products may

be present at the Property. PBS stated the results of this investigation in a report dated April 26, 2007 ("Phase I ESA"). A copy of the Phase I ESA is attached as **Attachment A**. In the Phase I ESA, PBS found five recognized environmental conditions, set out below, and concluded that a subsurface investigation was warranted.

PBS identified the following environmental conditions at the Property:

- i. The industrial/manufacturing use of the property beginning in 1979, as well as historic log and pipe storage, may have resulted in subsurface contamination.
- ii. An investigation conducted in 2000 identified heavy oil contamination in shallow soil.
- iii. Prior investigations conducted at the subject property and adjoining properties have identified widespread low levels of PCB contamination in soil.
- iv. An electrical substation with known PCB-containing transformer oils was located on the east-adjacent property.
- v. Fill material, including river dredge materials, was placed on the subject property prior to construction of the shipyard barracks in the 1940s and continuing into the 1950s.

Based on PBS' conclusion, Respondent contracted with PBS to conduct a Phase II ESA. PBS summarized the results of this investigation in a report dated April 27, 2007 ("Phase II ESA"). A copy of the Phase II ESA is attached as **Attachment B**.

PBS' investigation for the Phase II ESA was limited to the collection of soil samples; PBS did not conduct any groundwater sampling. PBS advanced eight boreholes and collected 14 soil samples. Of these samples, only one had a detection of petroleum hydrocarbons (which the lab noted as resembling creosote); however, the concentration of these constituents were far below the Oregon Department of Environmental Quality Risk-Based Concentrations ("RBCs"). PBS then ran additional analyses on this sample to further characterize the contamination and found one polynuclear aromatic hydrocarbon ("PAH"), benzo(a)pyrene, that exceeded the direct contact RBC. In addition, two of the 14 samples had detections of PCBs, one of which exceeded the RBC for Aroclor 1254. This was the same sample that exceeded the RBC for PAH.

PBS concluded that "the low levels of PCB and PAH contamination were from the same source as the PCBs that have been historically detected on neighboring properties to the west and the local vicinity." However, because the sample that exceeded the direct contact RBCs for PAH and Aroclor 1254 did not significantly exceed the RBCs, it was PBS' opinion that no additional subsurface investigations were warranted at the Property.

SECTION 3 - DESCRIPTION OF EACH PROPERTY

QUESTION 8. For each Property, provide all reports, information or data you have related to soil, water (ground and surface), or air quality and geology/hydrogeology at and about each Property. Provide copies of all documents containing such data and information, including both past and current aerial photographs as well as documents containing analysis or interpretation of such data.

Copies of the Phase I and Phase II ESAs prepared by PBS on behalf of Respondent are attached as Attachments A and B, respectively.

SECTION 4 - REGULATORY INFORMATION

QUESTION 9. Provide a copy of any registrations, notifications, inspections or reports required by the Toxic Substances Control Act, 15 USC § 2601 et seq., or state law, to be maintained or submitted to any government agency, including fire marshal(s), relating to PCB(s) or PCB(s) containing materials or liquids on any Property identified in response to Question 4.

Respondent is not required by the Toxic Substances Control Act, 15 USC § 2601 et seq., or state law, to maintain or submit any registrations, notifications, inspections, or reports to any government agency, including fire marshal(s), relating to PCB(s) or PCB(s) containing materials or liquids at the Property.

SECTION 5 - RELEASES AND REMEDIATION

QUESTION 10. Identify all leaks, spills, or releases into the environment of any waste, including petroleum, hazardous substances, pollutants, or contaminants, that have occurred at or from each Property, which includes any aquatic lands owned or leased by Respondent. In addition, identify, and provide copies of any documents regarding:

Respondent does not have any information regarding any leaks, spills, or releases into the environment of any waste that may have occurred at or from the Property other than the information that is set out in the Phase I and Phase II ESAs. Respondent does not lease any aquatic lands.

a. When such releases occurred;

N/A

b. How the releases occurred (e.g. when the substances were being stored, delivered by a vendor, transported or transferred (to or from any tanks, drums, barrels, or recovery units), and treated);

N/A

c. The amount of each hazardous substances, pollutants, or contaminants so released;

N/A

- d. Where such releases occurred;

N/A

- e. Any and all activities undertaken in response to each such release or threatened release, including the notification of any agencies or governmental units about the release;

N/A

- f. Any and all investigations of the circumstances, nature, extent or location of each release or threatened release including, the results of any soil, water (ground and surface), or air testing undertaken;

N/A

- g. All persons with information relating to these releases; and

N/A

- h. List all local, state, or federal departments or agencies notified of the release, if applicable.

N/A

QUESTION 11. Was there ever a spill, leak, release or discharge of waste, including petroleum, or hazardous substances, pollutant or contaminant into any subsurface disposal system or floor drain inside or under a building on the Property?

Respondent is not aware of any spill, leak, release or discharge of waste, including petroleum, or hazardous substances, pollutant or contaminant into any subsurface disposal system or floor drain inside or under a building on the Property.

If the answer to the preceding question is anything but an unqualified "no", identify:

- a. Where the disposal system or floor drains were located;

N/A

- b. When the disposal system or floor drains were installed;

N/A

- c. Whether the disposal system or floor drains were connected to pipes;

N/A

- d. **Where such pipes were located and emptied;**
N/A
- e. **When such pipes were installed;**
N/A
- f. **How and when such pipes were replaced, or repaired; and**
N/A
- g. **Whether such pipes ever leaked or in any way released such waste or hazardous substances into the environment.**
N/A

QUESTION 12. Has any contaminated soil ever been excavated or removed from the Property?

Respondent is not aware that any contaminated soil has ever been excavated or removed from the Property.

- a. **Amount of soil excavated;**
N/A
- b. **Location of excavation presented on a map or aerial photograph;**
N/A
- c. **Manner and place of disposal and/or storage of excavated soil;**
N/A
- d. **Dates of soil excavation;**
N/A
- e. **Identity of persons who excavated or removed the soil, if other than a contractor for Respondent;**
N/A
- f. **Reason for soil excavation;**
N/A

- g. **Whether the excavation or removed soil contained hazardous substances, pollutants or contaminants, including petroleum, what constituents the soil contained, and why the soil contained such constituents;**

N/A

- h. **All analyses or tests and results of analyses of the soil that was removed from the Property;**

N/A

- i. **All analyses or tests and results of analyses of the excavated area after the soil was removed from the Property; and**

N/A

- j. **All persons, including contractors, with information about (a) through (i) of this request.**

N/A

QUESTION 13. Have you ever tested the groundwater under your Property? If so, please provide copies of all data, analysis, and reports generated from such testing.

No, Respondent has not tested the groundwater under the Property.

QUESTION 14. Have you treated, pumped, or taken any kind of response action on groundwater under your Property? Unless the answer to the preceding question is anything besides an unequivocal "no", identify and provide copies of any documents regarding:

No, Respondent has not treated, pumped, or taken any kind of response action on groundwater under the Property.

- a. **Reason for groundwater action;**

N/A

- b. **Whether the groundwater contained hazardous substances, pollutants or contaminants, including petroleum, what constituents the groundwater contained;**

N/A

- c. **All analyses or tests and results of analyses of the groundwater;**

N/A

- d. **If the groundwater action has been completed, describe the basis for ending the groundwater action; and**

N/A

- e. **All persons, including contractors, with information about (a) through (c) of this request.**

N/A

QUESTION 15. Was there ever a spill, leak, release or discharge of a hazardous substance, waste, or material into the Willamette River from any equipment, structure, or activity occurring on, over, or adjacent to the river? If the answer to the preceding question is anything but an unequivocal "no", identify and provide copies of any documents regarding.

The Property is not adjacent to the Willamette River. Consequently, there has not been a spill, leak, release, or discharge of a hazardous substance, waste or material into the Willamette River from any equipment, structure, or activity occurring on, over, or adjacent to the river.

- a. **The nature of the hazardous substance, waste, or material spilled, leaked, released or discharged;**

N/A

- b. **The dates of each such occurrence;**

N/A

- c. **The amount and location of such release;**

N/A

- d. **Were sheens on the river created by the release;**

N/A

- e. **Was there ever a need to remove or dredge any solid waste, bulk product, or other material from the river as a result of the release? If so, please provide information and description of when such removal/dredging occurred, why, and where the removed.**

N/A

QUESTION 16. For any releases or threatened releases of PCB(s), identify the date, quantity, location and type of PCB(s), or PCB(s) containing materials or liquids, and the nature of any response to or cleanup of the release.

Respondent is not aware of any specific releases of PCBs at the Property. The only information Respondent is aware of regarding the presence of PCBs at the Property is set out in response to Question 7, above.

QUESTION 17. For any releases or threatened releases of PCB(s) and/or PCB(s) containing materials or liquids, identify and provide copies of any documents regarding the quantity and type of waste generated as a result of the release or threatened release, the disposition of the waste, provide any reports or records relating to the release or threatened release, the response or cleanup and any records relating to any enforcement proceeding relating to the release or threatened release.

Not applicable. See response to Questions 7 and 16, above.

SECTION 6 - PROPERTY INVESTIGATIONS

QUESTION 18. Provide information and documentation concerning all inspections, evaluations, safety audits, correspondence and any other documents associated with the conditions, practices, and/or procedures at the Property concerning insurance issues or insurance coverage matters.

Respondent does not have information and documentation regarding inspections, evaluations, safety audits, correspondence and any other documents associated with the conditions, practices, and/or procedures at the Property concerning insurance issues or insurance coverage matters.

QUESTION 19. Describe the purpose for, the date of initiation and completion, and the results of any investigations of soil, water (ground or surface), sediment, geology, and hydrology or air quality on or about each Property. Provide copies of all data, reports, and other documents that were generated by you or a consultant, or a federal or state regulatory agency related to the investigations that are described. Include for each Property listed in response to Question 4 above, copies of any and all boring logs, geologic reports, well logs, well locations, soil samples, and all sampling data including sampling locations of all such samples for the Property.

See response to Question 7, above.

QUESTION 20. Describe any remediation or response actions you or your agents or consultants have ever taken on each Property either voluntarily or as required by any state or federal agency. If not otherwise already provided under this Information Request, provide copies of all investigations, risk assessments or risk evaluations, feasibility studies, alternatives analysis, implementation plans, decision documents, monitoring plans, maintenance plans, completion reports, or other document concerning remediation or response actions taken on each Property.

Neither Respondent nor Respondent's agents have ever undertaken any remediation or response actions at the Property.

QUESTION 21. Are you or your consultants planning to perform any investigations of the soil, water (ground or surface), geology, hydrology, and/or air quality on or about the Property? If so, identify:

No, neither Respondent nor Respondent's consultants are not planning to perform any investigations of the soil, water (ground or surface), geology, hydrology, and/or air quality on or about the Property.

- a. **What the nature and scope of these investigations will be;**
N/A
- b. **The contractors or other persons that will undertake these investigations;**
N/A
- c. **The purpose of the investigations;**
N/A
- d. **The dates when such investigations will take place and be completed; and**
N/A
- e. **Where on the Property such investigations will take place.**
- f. N/A

SECTION 7 - COMPLIANCE WITH THIS REQUEST

QUESTION 22. If any of the documents solicited in this information request are no longer available, please indicate the reason why they are no longer available. If the records were destroyed, provide us with the following:

Respondent is not aware of destroyed documents or information no longer available.

- a. **The document retention policy between 1937 and the present;**
N/A
- b. **The approximate date of destruction;**
N/A
- c. **A description of the type of information that would have been contained in the documents;**

N/A

- d. **The name, job title and most current address known by you of the person(s) who would have produced these documents; the person(s) who would have been responsible for the retention of these documents; the person(s) who would have been responsible for destroying the documents; and the person(s) who had and/or still have the originals or copies of these documents; and**

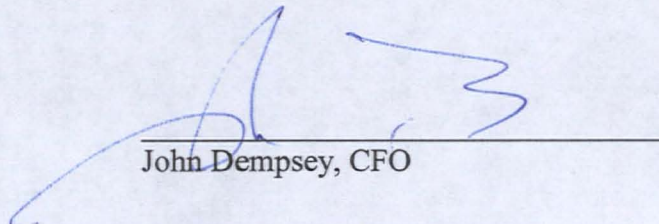
N/A

- e. **The names and most current addresses of any person(s) who may possess documents relevant to this inquiry.**

N/A

Executed on January 31, 2011.

Respectfully submitted,



John Dempsey, CFO

Mailing Address:
1750 NW Naito Parkway, Suite 106
Portland, OR 97209

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